

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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DOC #:
DATE FILED: 08/06/2024

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TURNER CONSTRUCTION COMPANY,

Plaintiff,

-v-

FEDERATED MUTUAL INSURANCE COMPANY,

Defendant.
-----X

23-cv-7757 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

The Court awards Plaintiff Turner Construction Co. its (presumably nominal) reasonable expenses in filing the motion to compel at Dkt. No. 34.

Federal Rule of Civil Procedure 37(a)(5) directs that, subject to certain specified exceptions, the Court must award the requesting party its reasonable expenses incurred in making a motion to compel if discovery is provided after the motion is filed. Fed. R. Civ. P. 37(a)(5). None of the exceptions apply. Defendant does not dispute that Plaintiff filed its motion after attempting in good faith to obtain the discovery without court action. It argues only that its delay in disclosure was substantially justified in that the parties believed that the case had been settled and that such circumstances make an award of expenses unjust. Dkt. No. 37 at 3. But the July 22 deadline had been agreed upon after it became apparent that the case had not settled in its entirety and Defendant identifies no other circumstances that makes an award of expenses unjust.

The Court expects any expenses to be minimal. Plaintiff may submit time records reflecting its request and any other evidence necessary to show the expenses are reasonable by

August 9, 2024, after meeting with Defendant to resolve this and any other disputes regarding the ongoing discovery. An opposition letter with respect to expenses is due on August 12, 2024. No reply letters will be permitted. The Clerk of Court is respectfully directed to close the motion at Dkt. No. 34

SO ORDERED.

Dated: August 6, 2024
New York, New York

A handwritten signature in black ink, appearing to read 'L. Liman', is written over a horizontal line.

LEWIS J. LIMAN
United States District Judge